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BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

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Arizona Corporation Commission

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MAR 05 2001

**IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S
COMPLIANCE WITH § 271 OF THE
TELECOMMUNICATIONS ACT OF
1996**

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DOCKET NO. T-00000A-97-0238**QWEST'S RESPONSE REGARDING SUBLOOP ISSUE 14**

Qwest Corporation ("Qwest") submits this response regarding Subloop Issue 14. Because Qwest agrees to the two requests made of it by Staff with regard to this issue, it should be deemed closed by consensus.

Subloop Issue 14 concerns the confidentiality of agreements that Qwest has with owners of multitenant buildings or campuses (MTEs). It pertains to access to Qwest ducts, conduits and rights-of-way (ROW), which is an element of checklist item 3. However, because workshop concerning checklist item 3 has closed, this issue was raised as a part of the workshop concerning Subloops.¹

In particular, Subloop Issue 14 has two parts: First, Staff asked Qwest if it would waive the rights it has to confidentiality of agreements it has with MTE owners (MTE Agreements) with the exception of dollar amounts.² Second, assuming the answer to the

¹ Qwest agreed not to object to the raising of this issue despite its tardiness given the close of the workshop on checklist item 3 some time ago. This failure of Qwest to object in this case depended on the particular circumstances of this issue. This compromise should in no way be treated as a waiver of its long held position that parties in general need to raise there issues in a timely manner in the context of the appropriate workshop.

² In other states, Qwest and CLECs have reached consensus that dollar amounts should be redacted.

first part is affirmative, would Qwest amend the Consent to Disclosure form attached to the SGAT in other states³ to disclose such a limited waiver.

Qwest answers both parts of Subloop Issue 14 in the affirmative. First, Qwest hereby states that it does agree to a limited waiver of confidentiality to permit disclosure of MTE Agreements to CLECs for their legitimate use in pursuit of access to ducts, conduit or ROW or Subloop access. In other words, CLECs may use MTE Agreements to determine whether the MTE Agreements give Qwest the requisite ownership or control over ducts, conduits or ROW; whether Qwest owns Subloop elements in the MTE; and where the demarcation point is.⁴ Consistent with the narrow legitimate uses of MTE Agreements and with Qwest's rights to their confidentiality, Qwest insists that CLEC not disclose MTE Agreements to CLEC agents or employees engaged in sales, marketing, or product management efforts on behalf of CLEC, and Qwest continues to require the redaction of dollar amounts. In other words, CLECs have no legitimate need to know the dollar amounts in MTE Agreements or to disclose them to marketing or sales or product personnel. CLECs can make full use of such agreements for the two legitimate purposes of access to Subloops and access to ducts, conduits and ROW without the dollar amounts and without disclosure to their marketing, sales or product management staffs.

Attached hereto are two items that satisfy the second part of Subloop Issue 14. Attachment 1 is a new SGAT section 10.8.2.27, and Attachment 2 is a new Exhibit G to the SGAT. Section 10.8.2.27 describes the process for disclosing MTE Agreements, and Exhibit G is the Consent to Disclosure form, which has been amended from the version in other states to be consistent with Qwest's response to the first part of Subloop Issue 14 (described above). In a nutshell, these SGAT amendments allow a CLEC to obtain from

³ Because this Consent to Disclosure form was not part of the SGAT reviewed in Arizona in the workshop on checklist item 3 and because AT&T objected to this form in other states, it has not been brought into the Arizona SGAT.

⁴ Subloop Issue 14 did not ask Qwest to allow use for Subloop purposes; however, Qwest anticipates that such a request could legitimately be made. Consequently, Qwest has proactively provided for such use.

Qwest a copy of an MTE Agreement by getting landowner consent to such disclosure. In addition, these amendments make clear that Qwest agrees to a limited waiver of confidentiality so long as the dollar amounts are redacted, CLEC uses the MTE Agreement for only legitimate purposes and CLEC does not disclose the MTE Agreement to persons without a legitimate need for such disclosure.

Thus, Qwest has agreed to implement both aspects of Subloop Issue 14, and that issue should be closed by consensus.

DATED this 5th day of March, 2001.

Qwest Corporation

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PHX/DPOOLE/1161256.1/67817.150

Attachment 1

10.8.2.27 For purposes of permitting CLEC to determine whether Qwest has ownership or control over duct/conduit or ROW within a specific multi-dwelling unit, if CLEC requests a copy of an agreement between Qwest and the owner of a specific multi-dwelling unit that grants Qwest access to the multi-dwelling unit, Qwest will provide the agreement to CLEC pursuant to the terms of this Section and the Consent to Disclosure form that is attached as Exhibit G to this Agreement. CLEC will submit a completed Attachment 1.A from Exhibit D that identifies a specific multi-unit dwelling or route for each agreement.

10.8.2.27.1 Upon receipt of a completed Attachment 1.A, Qwest will prepare and return an MDU information matrix, within ten (10) days, which will identify (a) the owner of the multi-dwelling unit as reflected in Qwest's records, and (b) whether or not Qwest has a copy of an agreement that provides Qwest access to the multi-dwelling unit in its possession. Qwest makes no representations or warranties regarding the accuracy of its records, and CLEC acknowledges that the original property owner may not be the current owner of the property.

10.8.2.27.2 Qwest grants a limited waiver of any confidentiality rights it may have with regards to the content of the agreement subject to the terms and conditions in Section 10.8.2.27.3 and the Consent to Disclosure form. Qwest will provide to CLEC a copy of an agreement listed in the MDU information matrix that has not been publicly recorded only after CLEC obtains authorization for such disclosure from the third party owner(s) of the real property at issue by presenting to Qwest an executed version of the Consent to Disclosure form that is attached as Exhibit G to this Agreement.

10.8.2.27.3 As a condition of its limited waiver of its right to confidentiality in an agreement that provides Qwest access to a multi-dwelling unit that Qwest provides to CLEC or that CLEC obtains from the multi-dwelling unit owner or operator, Qwest shall redact all dollar figures from copies of agreements that have not been publicly recorded that Qwest provides to CLEC and shall require that the multi-dwelling unit owner or operator make similar redactions prior to disclosure of the agreement. Upon execution of this Agreement, CLEC agrees that CLEC shall use any agreement provided by Qwest or the multi-dwelling unit owner or operator exclusively for the purposes set forth in the Consent to Disclosure form attached as Exhibit G to this Agreement and for no other purpose whatsoever. CLEC further agrees that CLEC shall not disclose the contents, terms, or conditions of any agreement provided pursuant to Section 10.8.2.27 to any CLEC agents or employees engaged in sales, marketing, or product management efforts on behalf of CLEC.

Attachment 2

Exhibit G

CONSENT TO DISCLOSURE

THE UNDERSIGNED, _____, a _____
("Owner"), whose address is _____, hereby consents to
the terms of the following paragraphs regarding the agreement described or entitled as
_____ between Qwest Corporation, formerly U S WEST
Communications, Inc. ("Qwest") and Owner for the property located at
_____ ("Property") that provides Qwest with access to Owner's
Property ("Agreement").

FOR TEN DOLLARS (\$10) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner agrees as follows:

1. Title to Property. Owner represents and warrants either (a) that Owner is the owner of fee title to the Property described in the Agreement or, if no description of the Property is given in the Agreement, then (b) that Owner is the grantor, or the successor to or assignee of the grantor, of the easement rights, if any, under the Agreement. Owner further represents and warrants that Owner has the legal right to execute this Consent, including, without limitation, the right to waive the confidentiality of the Agreement as set forth in paragraph 3 of this Consent.
2. Owner's Acknowledgments. Owner expressly acknowledges that (a) this is a legal document that may affect Owner's rights and Owner was given the opportunity to have the Agreement and this Consent reviewed by Owner's attorney; and (b) Owner, by signing this Consent, waives any rights it may have to keep the terms and provisions of the Agreement confidential.
3. Owner's Waiver of Confidentiality. Owner hereby waives any right it may have to keep the terms and conditions of the Agreement confidential, whether or not such right to confidentiality is expressly set forth in the Agreement or elsewhere or may have been agreed to orally, subject to CLEC's compliance with the requirements of paragraph 5. Owner further covenants not to assert any claim or commence any action, lawsuit, or other legal proceeding against Qwest or the competitive local exchange carrier ("CLEC") presenting this Consent to Disclosure, based upon or arising out of Owner's alleged right to confidentiality relating to the Agreement. Owner's consent to disclosure applies only to the Agreement that is described in this Consent to Disclosure form and only to the undersigned CLEC.
4. Qwest's Waiver of Confidentiality. Qwest represents and warrants that it is granting a limited waiver of its confidentiality rights that permits CLEC to review the Agreement subject to CLEC's compliance with the requirements of paragraph 5 and Qwest's right to redact all dollar amounts set forth in the Agreement. Qwest's consent to disclosure applies only to the Agreement that is described in this Consent to Disclosure form and only to the undersigned CLEC.
5. CLEC's Obligations. CLEC shall use the Agreement exclusively for the following purposes and for no other purposes whatsoever:

(a) to determine whether Qwest has ownership or control over duct, conduits, or rights-of-way within the Property described in the Agreement; or

(b) to determine the ownership of wire within the Property described in the Agreement; or

(c) to determine the demarcation point between Qwest facilities and the Owner's facilities in the Property described in the Agreement;

CLEC further agrees that CLEC shall not disclose the contents, terms, or conditions of the Agreement to any CLEC agents or employees engaged in sales, marketing, or product management efforts on behalf of CLEC.

6. Acknowledgement of Limitation on Waivers. Owner understands that Qwest does not agree to waive the confidentiality of the dollar amounts set forth in any Agreement, and acknowledges that Owner has no right to provide copies of such Agreements to any party unless Owner has completely deleted the dollar amounts. Owner shall not provide a copy of the Agreement unless Owner has completely deleted all dollar amounts. Whether provided by Owner or Qwest, CLEC shall comply with the conditions set forth in paragraph 5.

7. Notices. All notices to be given pursuant to this Agreement shall be deemed delivered (a) when personally delivered, or (b) three (3) business days after being mailed postage prepaid, by United States certified mail, return receipt requested, or (c) one business day after being timely delivered to an overnight express courier service such as Federal Express which provides for the equivalent of a return receipt to the sender, to the above described addresses of the parties hereto, or to such other address as a party may request in a writing complying with the provisions of this Section.

EXECUTED as of the date first written above.

OWNER:

a _____

CLEC:
